

22-1642

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CARAVAN CANOPY INTERNATIONAL, INC.,

Appellant,

v.

Z-SHADE CO., LTD., COSTCO WHOLESALE
CORPORATION, LOWE'S HOME CENTERS, LLC,
SHELTERLOGIC CORP.,

Appellees.

On Appeal From the Patent Trial and Appeal Board of the United States Patent
and Trademark Office in IPR 2020-01026

**OPPOSITION TO MOTION FOR LEAVE TO ACCEPT LATE-FILED
JOINT APPENDIX**

[caption with counsel continues on following pages]

**KNOBBE, MARTENS OLSON &
BEAR LLP**

Michael K. Friedland
Lauren K. Katzenellenbogen
2040 Main Street, 14th Floor
Irvine, California 92614
Tel: (949) 760-0404

Attorneys for Petitioners-Appellees
Z-SHADE CO., LTD., and COSTCO
WHOLESALE CORPORATION.

FORM 9. Certificate of Interest

Form 9 (p. 1)
July 2020

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 22-1642

Short Case Caption Caravan Canopy International, Inc. v. Walmart, Inc.

Filing Party/Entity Z-Shade Co., Ltd.

Instructions: Complete each section of the form. In answering items 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance. **Please enter only one item per box; attach additional pages as needed and check the relevant box.** Counsel must immediately file an amended Certificate of Interest if information changes. Fed. Cir. R. 47.4(b).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 4/28/2022

Signature: /s/ Lauren K. Katzenellenbogen

Name: Lauren K. Katzenellenbogen

FORM 9. Certificate of Interest

Form 9 (p. 2)
July 2020

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. <input type="checkbox"/> None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. <input checked="" type="checkbox"/> None/Not Applicable
Z-Shade Co., Ltd.	Z-Shade Co. Ltd.	

☐ Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
July 2020

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable

☐ Additional pages attached

Kerry Taylor Knobbe, Martens, Olson & Bear, LLP	Andrew M. Douglas Knobbe, Martens, Olson & Bear, LLP	Lauren K. Katzenellenbogen Knobbe, Martens, Olson & Bear, LLP
Michael K. Friedland Knobbe, Martens, Olson & Bear, LLP		

5. Related Cases. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

☒ None/Not Applicable

☐ Additional pages attached

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable

☐ Additional pages attached

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**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 22-1642

Short Case Caption Caravan Canopy International, Inc. v. Walmart, Inc.

Filing Party/Entity Costco Wholesale Corporation

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Appellees ZShade Co., Ltd. and Costco Wholesale Corporation hereby oppose Caravan's "Amended Motion for Leave to Accept Late-Filed Joint Appendix." This Court should deny Appellant's motion for several reasons.

First, Appellant did not seek an extension to file the joint appendix until three months after it was due, and after the Court dismissed the appeal for failure to prosecute. Dkt. No. 37. For this reason alone, this Court should deny Appellant's motion.

Second, contrary to Caravan's assertions (Mot. ¶ 3), Caravan did not send a draft joint appendix to Appellees. The document that Caravan emailed to Appellees on July 26, 2022 was not a draft joint appendix; rather, it was merely a draft designation of materials from which the joint appendix would be prepared. Katzenellenbogen Decl. ¶ 2. Caravan never emailed a draft joint appendix to the Appellees. *Id.*

Third, Appellant's proposed joint appendix does not comply with Fed. Cir. Rule 30(a)(1)(B). The proposed joint appendix appears to include all of the documents in Appellant's draft designation of materials, including many pages not cited in any brief. Appellant never sent this document to Appellees as a draft joint appendix prior to filing it. Katzenellenbogen Decl. ¶ 3.

The Federal Rules of Appellate Procedure, as supplemented by the rules of this Court, set forth requirements that litigants must follow, and it is within this

Court's power to dismiss an appeal for failure to prosecute when an appellant fails to comply with these rules. *Julien v. Zeringue*, 864 F.2d 1572, 1574 (Fed. Cir. 1989). Appellant's failure to comply with the Federal Rules of Appellate Procedure and the rules of this Court impedes judicial efficiency, is prejudicial to Appellees, and this Court should deny Appellant's motion and allow its dismissal of this appeal to stand.

Dated: October 6, 2022

Respectfully submitted,

By: /s/ Lauren Keller Katzenellenbogen

KNOBBE, MARTENS OLSON &
BEAR LLP

Michael K. Friedland
Lauren K. Katzenellenbogen
2040 Main Street, 14th Floor
Irvine, California 92614
Tel: (949) 760-0404

Attorneys for Petitioners-Appellees
Z-SHADE CO., LTD., and
COSTCO WHOLESALE
CORPORATION

DECLARATION OF LAUREN KELLER KATZENELLENBOGEN

I, Lauren Keller Katzenellenbogen, hereby declare as follows:

1. I am a partner in the law firm of Knobbe, Martens, Olson & Bear, LLP, and I am counsel of record for Z-Shade Co., Ltd. and Costco Wholesale Corporation. The following is true of my own personal knowledge, and if called as a witness I would and could testify competently thereto.

2. Caravan did not send a draft joint appendix to Appellees. The document that Caravan emailed to Appellees on July 26, 2022 was not a draft joint appendix; rather, it was merely a draft designation of materials from which the joint appendix would be prepared. Caravan never emailed a draft joint appendix to the Appellees.

3. The proposed joint appendix appears to include all of the documents in Appellant's draft designation of materials, including many pages not cited in any brief. Appellant never sent this document to Appellees as a draft joint appendix prior to filing it.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

February 6, 2023

/s/ Lauren Keller Katzenellenbogen
Lauren Keller Katzenellenbogen

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2022, I electronically filed the foregoing
OPPOSITION TO MOTION FOR LEAVE TO ACCEPT LATE-FILED JOINT
APPENDIX with the Court's CM/ECF filing system, which constitutes service,
pursuant to Fed. R. App. P. 25(c) and Fed. Cir. R. 25(a).

/s/ Lauren Keller Katzenellenbogen

KNOBBE, MARTENS OLSON &
BEAR LLP

Michael K. Friedland

Lauren K. Katzenellenbogen

2040 Main Street, 14th Floor

Irvine, California 92614

Tel: (949) 760-0404

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B). The brief contains 292 words, excluding the portions of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii).

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6).

This brief has been prepared in a proportionally spaced typeface using Microsoft Word for Microsoft 365 in 14 point Times New Roman.

/s/ Lauren Keller Katzenellenbogen

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